

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

<b>IN RE:</b>  <b>ROBERTO Y GUERRERO DIAZ LUGZA M PRIETO MARTINEZ Debtors</b>	<b>CASE NO. 09-06992 (SEK)</b>
 <b>BANCO POPULAR DE PR Movant</b>	<b>CHAPTER 13</b>
 <b>Vs.</b>  <b>ROBERTO Y GUERRERO DIAZ LUGZA M PRIETO MARTINEZ JOSE R CARRION MORALES Respondents</b>	<b>INDEX: _____</b>

**MOTION REQUESTING THAT STAY BE LIFTED**  
**TO THE HONORABLE COURT:**

**NOW COMES** Banco Popular de Puerto Rico, (BPPR), through counsel, and most respectfully **STATES** and

**PRAYS:**

1. *This Court has jurisdiction under 28 USC 1334 and 157(a) and the General Order of referral of Title 11 Proceedings to the United States Bankruptcy Court for the District of Puerto Rico dated July 19, 1984 (Torruella, C.J.).*

*Wallace Vazquez Sandblin*

Counselor at Law  
17 México Street, Suite D-1  
San Juan, Puerto Rico 00917-2202  
Phone (787) 756-5730, Fax (787) 764-0340  
E-mail: walvaz@prtc.net

2. *Venue is vested in this Court as debtor filed for protection within this district, 28 U.S.C. 1409.*
3. *On July 29 2005, Debtors, Roberto Y Guerrero Diaz and Lugza M Prieto Martinez signed a Mortgage Note to the order of Preferred Mortgage Corporation in the amount of \$114,098.00 plus interest at the rate of 5.1/2% per annum plus 3 allowances of 10% of principal to secure interest in addition to those secured by law, costs and legal expenses in the event of a judicial claim, and any other costs incurred, note to mature on its Anniversary on August 1, 2035. See Proof of Claim for copy of mortgage and note.*
4. *Movant is the holder or servicer of the Mortgage Note.*
5. *The mentioned Mortgage Note is secured by the property described in the proof of claim #5 in the Spanish language. We incorporate proof of claim by reference.*

*Wallace Vázquez Sandbrin*

Counselor at Law  
17 México Street, Suite D-1  
San Juan, Puerto Rico 00917-2202  
Phone (787) 756-5730, Fax (787) 764-0340  
E-mail: [walvaz@prtc.net](mailto:walvaz@prtc.net)

6. As of the filing of the Bankruptcy petition, Debtors were 4 payments of \$714.00 in arrears with respect to the mentioned note. Total pre petition arrears \$3,886.60.
7. Debtors are now 4 post-petition payments in arrear as of filing of this index. Total arrears of \$3,279.40. Enclosed as Exhibit "A" Statement of Account.
8. In summary, BPPR is not adequately protected.
9. Under the circumstances, debtors are creating unreasonable delay, which is prejudicial to this creditor, and in that regard this creditor is no adequately protected.
10. Enclosed as Exhibit "B" statement under the Servicemembers civil Relief Act of 2003.
11. In the event this motion is granted appearing party withdraws the above mentioned claim and will collect from the rem.
12. Mr. Jose R Carrion Morales, Trustee, is joint as an indispensable party.

*Wallace Vazquez Sandria*

Counselor at Law  
17 México Street, Suite D-1  
San Juan, Puerto Rico 00917-2202  
Phone (787) 756-5730, Fax (787) 764-0340  
E-mail: [wvalvaz@prtc.net](mailto:wvalvaz@prtc.net)

**WHEREFORE**, it is respectfully requested that this Motion BE GRANTED, and accordingly, that Stay Be Lifted, for the benefit of Movant awarding \$150.00 in costs and \$250.00 in attorney fees, with such further relief as is deemed appropriate in the circumstances.

In San Juan, Puerto Rico, this 17 day of July, 2011.

  
Wallace Vazquez Sanabria-125101  
17 Mexico St., Suite D-1  
San Juan, PR 00917-2202  
Tel: 787-756-5730  
Fax: 787-764-0340  
Email: walvaz@prtc.net

*Wallace Vazquez Sanabria*

Counselor at Law  
17 México Street, Suite D-1  
San Juan, Puerto Rico 00917-2202  
Phone (787) 756-5730, Fax (787) 764-0340  
E-mail: [walvaz@prtc.net](mailto:walvaz@prtc.net)

## STATEMENT OF ACCOUNT

DEBTOR:	ROBERTO YAMIL GUERRERO DIAZ			BPPR NUM:	071010018342488
BANKRUPTCY NUM:	09-06992SEK			FILING DATE:	08/26/09
<b>SECURED LIEN ON REAL PROPERTY</b>					
Principal Balance as of	11/01/10			105,000.20	
Accrued Interest from	10/01/10	to	07/31/11	4,812.51	
Interest: 5.500%	Accrued num. of days: 300	Per Diem: 16.041697			
<b>Monthly payment to escrow</b>					
Hazard \$0.00	Taxes \$0.00	MIP \$0.00			
A&H \$0.00	Life \$0.00				
Total monthly escrow		\$0.00	Months in arrears 8	Escrow in arrears	0.00
				Accrued Late Charge:	772.00
<b>Advances Under Loan Contract:</b>					
Title Search \$45.00	Tax Certificate \$0.00	Inspection \$0.00	107.00		
Other \$62.00					
Legal Fees:				575.00	
Total amount owed as of	07/31/11			111,286.71	
<b>AMOUNT IN ARREARS</b>					
<b>PRE-PETITION AMOUNT:</b>					
4 payments of \$714.00 each one				2,856.00	
acummulated late charges				348.60	
<b>Advances Under Loan Contract:</b>					
Title Search \$45.00	Tax Certificate \$0.00	Inspection \$0.00	107.00		
Other \$62.00					
Legal Fees				575.00	
A = TOTAL PRE-PETITION AMOUNT 3,886.60					
<b>POST-PETITION AMOUNT:</b>					
4 payments of \$714.00 each one				2,856.00	
Late Charge				423.40	
B = TOTAL POST-PETITION AMOUNT 3,279.40					
A + B = TOTAL AMOUNT IN ARREARS 7,166.00					
<b>OTHER INFORMATION</b>					
Next pymt due 11/01/10	Interest rate 5.500% P & I	\$647.84	Monthly late charge \$28.66		
Investor BANCO POPULAR DE PUERTO RICO	Property address BO. CEIBA CARMELITA 164 CALLE 9 VEGA BAJA, PR.				
The subscrblng representative of Banco Popular de Puerto Rico declares under penalty of perjury that according to the information gathered by Banco Popular de Puerto Rico the foregoing is true and correct.					
					
07/11/11					
DATE					

SACCTFHA MILLIE MOJICA



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
GUERRERO-DIAZ	ROBERTO Y		Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavely-Dixon*

---

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:KTG8E7Q6Q2



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
PRIETO-MARTINEZ	LUGZA M		Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavely-Dixon*

---

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a name and SSN provided by the requester.

Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:LG4VPK6ULM